

passages. Repeat dosage every two hours until relieved," were false and misleading since the article would not be efficacious in the cure, mitigation, treatment, or prevention of colds nor in the treatment of all acute symptoms of trouble in the nasal and throat passages; and certain statements in an accompanying leaflet regarding another drug, *Coldex*, were false and misleading, since they represented and suggested that the other drug would be efficacious in the cure, mitigation, treatment, or prevention of colds, coughs, and flu, and that the use of the other drug would often save the whole family from a period of sickness, whereas the other drug would not be efficacious for those purposes.

Diarrhea and Flux Remedy, misbranding, Section 502 (a), the label statements, "Diarrhea and Flux Remedy An efficient Antiferment and intestinal antiseptic and astringent for the treatment of Diarrhea, Dysentery, Colitis and Flux," were false and misleading since the article would not be an efficacious remedy in the cure, mitigation, treatment, or prevention of diarrhea or flux and would not be an efficient antiferment or intestinal antiseptic or astringent for the treatment of diarrhea, dysentery, colitis, or flux.

Coldex, misbranding, Section 502 (a), the name "Coldex" was misleading in that it represented and implied that the article would be a competent treatment for colds, whereas it would not be a competent treatment for colds; and the label statement "For Relief of Colds" was false and misleading since the article would not be an effective treatment for the relief of colds. Further misbranding, Section 502 (f) (1), the labeling of the article failed to bear adequate directions for use in that the directions, "Two Teaspoonfuls in Water Then one teaspoonful every three or four hours until bowels move freely. Thereafter three times a day until desired results are obtained," suggested continuous use of the article, whereas the article was a laxative, and frequent or continued use might result in dependence upon laxatives to move the bowels; and, Section 502 (f) (2), the labeling of the article failed to warn that it should not be used when abdominal pain, nausea, vomiting, or other symptoms of appendicitis were present, and that frequent or continued use might result in dependence upon laxatives to move the bowels.

DISPOSITION: April 9, 1945. A plea of guilty having been entered on behalf of the defendant, the court imposed a fine of \$100.

1563. Alleged misbranding of Heron's Constipation Remedy and Liver Regulator and Heron's Pure Eucalyptus Oil. U. S. v. Norman C. Heron (N. C. Heron Co.). Motion to strike granted and demurrer sustained. Case appealed and subsequently dismissed upon the death of the defendant. (F. D. C. No. 11399. Sample Nos. 14862-F to 14864-F, incl., 36429-F, 36430-F, 39904-F.)

INDICTMENT RETURNED: June 14, 1944, Southern District of California, against Norman C. Heron, trading as the N. C. Heron Co., Los Angeles, Calif.

ALLEGED SHIPMENT: Between the approximate dates of July 23 and August 26, 1943, from the State of California into the States of Oklahoma and Colorado.

PRODUCT: Analyses of samples disclosed that the *Constipation Remedy and Liver Regulator* consisted essentially of extracts of plant drugs including a laxative drug such as cascara sagrada; and that the *Heron's Pure Eucalyptus Oil* consisted of an oil of Eucalyptus.

NATURE OF CHARGE: *Constipation Remedy and Liver Regulator*, misbranding, Section 502 (a), the name of the article was false and misleading since it represented and suggested that the article would be efficacious in the cure, mitigation, treatment, or prevention of all forms of constipation, and that it would be efficacious as a liver regulator, whereas the article would not be efficacious for the purposes claimed; and the label statements, "Harmless—Not Habit Forming," were false and misleading since the article might be harmful in the presence of appendicitis and might cause the formation of the laxative habit. Further misbranding, Section 502 (f) (1), the labeling of the article failed to bear adequate directions for use since the directions on the label suggested frequent or continued use of the article, whereas it was a laxative and should not be used frequently or continuously; and, Section 502 (f) (2), the labeling failed to warn that the article should not be used when abdominal pain, nausea, vomiting, or other symptoms of appendicitis were present, and that frequent or continued use might result in dependence upon laxatives to move the bowels.

Eucalyptus oil, misbranding, Section 502 (a), certain statements on the labels and in an accompanying circular were false and misleading since they represented and suggested that the article would be efficacious in the cure, mitigation, treatment, or prevention of colds, coughs, whooping cough, croup, consumption,

diphtheria, catarrh, asthma, bronchitis, fever, headache, earache, toothache, neuralgia, sore throat, pleurisy, pneumonia, diabetes, stomach and kidney trouble, rheumatism, sprains, bruises, cuts, burns, insect bites, poison oak, and similar conditions indicated by the abbreviation "etc.," gravel, and wounds of all kinds; that the article was the most useful all around family remedy known for internal or external uses from the youngest to the oldest; that, when used in conjunction with *Heron's Liver Regulator*, it would be efficacious in the treatment of Bright's disease and diabetes; and that it would be efficacious in the treatment of colds or anything that originates from a cold, whereas the article would not be efficacious for the purposes claimed; and certain statements regarding another drug, *Heron's Constipation Remedy and Liver Regulator*, appearing in an accompanying circular, were false and misleading since they represented and suggested that the other drug was a wonderful relief for the liver, stomach, and bowels, diabetes, and the gall, whereas the other drug was not a wonderful relief for the liver, stomach, or bowels, diabetes, or the gall.

It was also alleged that the defendant had been previously convicted under the Federal Food, Drug, and Cosmetic Act.

DISPOSITION: The defendant subsequently filed a notice of motion to strike from the indictment the allegation of prior conviction and also filed a demurrer to the indictment as a whole for insufficiency and to the prior conviction pleaded therein. On July 10, 1944, the matter came on for hearing, at the conclusion of which the court granted the motion to strike and sustained the demurrer as to all counts of the indictment. On August 9, 1944, the Government filed a petition for an appeal from the district court to the Circuit Court of Appeals for the Ninth Circuit, setting forth that the action in granting the motion to strike the allegation of prior conviction in each count of the indictment and sustaining the demurrer to each count effected a final order setting aside the indictment. On the same date, an order was entered allowing the appeal. On February 20, 1945, following the death of the defendant, an order was entered by the appellate court, abating the action and dismissing the appeal.

1564. Adulteration and misbranding of balsam copaiba. U. S. v. 2 Cans of Balsam Copaiba. Default decree of forfeiture and destruction. (F. D. C. No. 12673. Sample No. 58676-F.)

LIBEL FILED: On or about June 27, 1944, Western District of Virginia.

ALLEGED SHIPMENT: On or about March 13, 1944, by the McCormick Sales Co., from Baltimore, Md.

PRODUCT: 2 cans, each containing 29 pounds, of *balsam copaiba* at Appomattox, Va. The product consisted essentially of a mixture of copaiba, cubeb, alum, and magnesium carbonate.

LABEL, IN PART: (Cans) "29 Lbs. Balsam Copaiba (Mixture) McCormick & Co. Manufacturing Chemists Baltimore, Md., U. S. A."

NATURE OF CHARGE: Adulteration, Section 501 (d), the substances cubeb, alum, and magnesium carbonate had been substituted in part for *balsam copaiba* (mixture).

Misbranding, Section 502 (a), the label statement, "Balsam Copaiba (Mixture)," was false and misleading as applied to the article, which consisted in part of cubeb, alum, and magnesium carbonate; Section 502 (e) (2), the label of the article failed to bear the common or usual name of each active ingredient in the article; and, Section 502 (f) (1), its label failed to bear adequate directions for use.

DISPOSITION: December 4, 1944. No claimant having appeared, judgment of forfeiture was entered and the product was ordered destroyed.

1565. Misbranding of Pso-Ridisal. U. S. v. 180 Dozen Packages of Pso-Ridisal (and 6 other seizure actions against Pso-Ridisal). Consent decree of condemnation. Product ordered released under bond. (F. D. C. Nos. 12916, 13398, 13399, 13401, 13595, 13596, 13611. Sample Nos. 59858-F, 63909-F, 66958-F, 66959-F, 68988-F, 86902-F, 87407-F.)

LIBELS FILED: Between the approximate dates of July 27 and October 3, 1944, Northern District of Illinois, Southern District of Florida, Western District of Wisconsin, District of Kansas, and District of Colorado.

ALLEGED SHIPMENT: Between the approximate dates of May 11 and August 9, 1944, by the Sulfa Products Co., from Kansas City, Mo.

PRODUCT: *Pso-Ridisal*, 192 dozen packages at Chicago, Ill., 3 dozen packages at Miami, Fla., 5 dozen packages at LaCrosse, Wis., 21 dozen packages at Wichita, Kans., and 33 packages at Denver, Colo. Analyses of samples disclosed that